IN THE High Court OF JUDICATURE AT:JABALPUR.

W.P. No. 5564 OF 1999

PETITIONER (RESPONDENT BEFORE SAT) : 1. State of MP, through Chief Secretary, Bhopal
2. The State of Madhya Pradesh, Through: Secretary, S.C. & S.T./Backward Class Welfare Department, Govt. of M.P., Vallabh Bhawan, BHOPAL.
3. The Governor of M.P., Bhopal.

-v/s-

RESPONDENT (APPLICANT BEFORE SAT) : 1. Shankarlal Pujari aged 65 years S/o Shri Ashram Pujari, R/o Veerpara, P.O. Sarangarh, Distt. Raigarh (MP).

RESPONDENT : 1. The State Administrative Tribunal, M.P. Jabalpur, through its Registrar.

PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

DETAILS OF THE PETITION.

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Before the Division Bench:
Hon. Shri KHN Kuranga, CJ and
Hon Shri L.C.Bhadoo, J

28.6.2003:

Shri Sanjay Agrawal Dy. GA for petitioner/State.
Shri R.S. Patel counsel for the respondent No.1.

Heard both the counsel.

By this writ petition filed under Article 227 of the Constitution of India the petitioner/State through the Chief Secretary seeks to challenge the order dated 3.12.1998 passed by the M.P. State Administrative Tribunal, Bench Jabalpur in T.A. No. 3280/1988 (Shankarlal Pujari Vs. State of M.P. and others) by which the Tribunal has set aside the order of the competent authority by reducing the punishment of compulsory retirement imposed on the respondent No.1 herein to with-holding of two increments without cumulative effect.

2. We have heard learned counsel for both the parties.

3. Learned counsel for the petitioner herein argued that as per the report of the Inquiry Officer all the three charges were found proved against the respondent and that report of the

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	Inquiry Officer was accepted by the Competent Authority vide order dated 17.4.94 that too after consultation with the State Public Service Commission, and imposed the penalty of compulsory retirement. Against the imposition of the penalty of compulsory retirement the respondent No.1 herein filed an appeal before His Excellency, the Governor of the State of Madhya Pradesh and that appeal was rejected by His Excellency, the Governor vide order dated 8.4.1986. Counsel for the petitioner further submitted that the charges leveled against the respondent herein were regarding the defalcation of money, that is to say, an amount of 24,101.06 which was kept in Farsabahar cash box, was on inspection, found only Rs. 60/- and thereby amount was short by Rs. 24,044.06. Similarly the money, which was with Mr. Pujari, respondent No.1 herein for making the payment to the students towards their scholarship, washing allowance and educational allowance was also not adjusted by him for two years. The third charge leveled against him was that the amount which was with him for the scholarship meant for the girl students was not adjusted and the vouchers were also not submitted by him. All the abovesaid three charges were found proved against the respondent No.1 herein.	

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	4. According to the learned counsel for the petitioner the charges leveled against him are of very serious nature and they are concerned with the public money and in that circumstance the Tribunal was not within its right and was also not justified in its decision while reducing the quantum of punishment from compulsory retirement to that of with-holding of two increments without cumulative effect. According to the counsel for the petitioner the Tribunal was not right in sitting as an appellate authority and changing the decision of the competent authority. Counsel for the petitioner has placed reliance on the judgment of the Apex Court reported in (2002) 5 SCC 11, Union of India and others Vs. Narain Singh. He also placed reliance on the decision of the Apex Court reported in (2001) 10 SCC 70 Tripura Gramin Bank and others Vs. Tarit Baran Roy and another and argued that the Tribunal was not within its right to reduce the penalty of compulsory retirement to that of stoppage of two increments. On the other hand learned counsel appearing for respondent No.1 has supported the decision of the Tribunal.	

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5. From the perusal of the judgment of the Tribunal and the findings recorded by the disciplinary authority on the charges leveled against respondent No.1 as well as the decision of the competent authority accepting the inquiry report, it is apparently clear that all the three charges which were regarding shortage of money in the cash box, was found proved against the respondent No.1 herein. The other charge relating to the money which the respondent No.1 took but did not either submit the vouchers or adjusted the amount, which he withdrew against the scholarship, washing allowance and educational allowance for the students, was also found proved against him. These charges, according to the counsel for the petitioner, relate to the financial irregularities committed by the respondent No.1 for his personal gain. Therefore, by any stretch of imagination it can not be said that the charges against the respondent No.1 herein were of trifling nature and the finding of the competent authority imposing the punishment of compulsory retirement was severe in any manner or disproportionate to the misconduct of the respondent. In the above judgment relied upon by the counsel for the petitioner the Supreme Court has clearly laid down the law

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that it was not for the Court to reduce on the misplaced grounds of sympathy and mercy, the punishment of dismissal to reinstatement with certain punishment like shortage of three increments. It has also been held by the Supreme Court in another case of Tripura Gramin Bank (supra) that the "High Court grossly erred in re-appreciating the materials and interfering in second appeal with the quantum of punishment. Moreover, yet in another judgment in the case of **District Forest Officer Vs. R. Rajamanickam and another** reported in 2003 AIR SCW 2919, the Supreme Court has held that the Tribunal can not take over functions of Disciplinary Authority and it can not go into the correctness or truth of the charges. The Supreme Court further observed that indeed even after the conclusion of the disciplinary proceedings, if the matter comes to Court or Tribunal, they have no jurisdiction to look into the truth of charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authiority as the case may be.

6. Thus, after hearing the counsel for the parties and going through the law laid down by the Supreme Court in the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	aforesaid cases relied upon by the counsel for the petitioner and taking note of the fact that all the three charges leveled against respondent No.1 were found proved, we are of the considered opinion that the punishment of compulsory retirement of the respondent No.1 imposed by the competent authority was not in any manner disproportionate to the misconduct of the respondent. Therefore, we are of the view that the order passed by the learned Tribunal is not legal and justified looking to the facts and circumstances of the case and therefore, the same is liable to be set-aside. Accordingly the petition filed by the State is allowed and the impugned order passed by the Tribunal is set aside. Sd/- Chief Justice	Sd/- L.C. Bhadoo Judge

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